

FILED IN THE

UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAIIMOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

NOV 24 2006

United States District Court

District

DISTRICT OF HAWAII

Name of Movant

ABRAHAM NGUYEN MARTIN

Prisoner's No.

87158-022

Docket No.

1:04-cr-00322-DAE-  
1:05-cr-00049-DAE-

Place of Confinement

Federal Prison Camp  
3705 West Farm Road  
Lompoc, CA 93436CV06 00629  
FOR CR 04-322 DAE DAE

(Include name upon which convicted)

UNITED STATES OF AMERICA

V

ABRAHAM NGUYEN MARTIN

(Full name of movant)

MOTION

CV06 00632 DAE LEK

FOR CR 05-49 DAE

1. Name and location of court which entered the judgment of conviction under attack U.S. COURT

DISTRICT OF HAWAII, 300 ALA MOANA BLVD., HONOLULU, HI 96850

2. Date of judgement of conviction December 5, 2005

3. Length of sentence 70 months

4. Nature of offense involved (all counts) Bank fraud, Access device fraud,
- 
- Money Laundering, Copyright Infringement.

5. What was your plea? (Check one)

(a) Not guilty ☐  
(b) Guilty ☒  
(c) Nolo contendere ☐

6. Kind of trial: (Check one)

(a) Jury ☐  
(b) Judge only ☒

7. Did you testify at trial?

Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?

Yes ☐ No ☒

9. If you did appeal, answer the following: N/A

(a) Name of court \_\_\_\_\_

(b) Result \_\_\_\_\_

(c) Date of Result \_\_\_\_\_

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgement in any federal court?  
Yes ☐ No ☒ N/A

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court \_\_\_\_\_ N/A

(2) Nature of proceedings \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(b) As to any second petition, application or motion, give the same information:

(1) Name of Court \_\_\_\_\_ N/A

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result \_\_\_\_\_

(6) Date of Result \_\_\_\_\_

(c) As to any third petition, application or motion, give the same information:

(1) Name of Court \_\_\_\_\_ N/A

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result \_\_\_\_\_

(6) Date of Result \_\_\_\_\_

(d) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☐(2) Second petition, etc. Yes ☐ No ☐

N/A

(3) Third petition, etc. Yes ☐ No ☐

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

N/A

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all grounds in this matter, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for relief. You may raise any ground which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntary or with understanding of the nature of the charge and the consequences of the plea.
- (b) Convictions obtained by use of coerced confession.
- (c) Convictions obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Convictions obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Convictions obtained by a violation of the protection against self-incrimination.
- (f) Convictions obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Convictions obtained by the violation of the protection against double jeopardy.
- (h) Convictions obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: SEE ATTACHED MEMORANDUM IN SUPPORT OF MOTION

Supporting FACTS (tell your story briefly without citing cases or law): \_\_\_\_\_

B. Ground two: SEE ATTACHED MEMORANDUM IN SUPPORT OF MOTION.

Supporting FACTS (tell your story briefly without citing cases or law): \_\_\_\_\_

C. Ground three: SEE ATTACHED MEMORANDUM IN SUPPORT OF MOTION.

Supporting FACTS (tell your story briefly without citing cases or law): \_\_\_\_\_

D. Ground four: SEE ATTACHED MEMORANDUM IN SUPPORT OF MOTION

Supporting FACTS (tell your story briefly without citing cases or law): \_\_\_\_\_

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them: \_\_\_\_\_

N/A

14. Do you have any petition or appeal now pending in any court as to the judgement under attack?  
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgement attacked herein:

(a) At preliminary hearing Mr. Michael Weight, Federal Public Defender  
300 Ala Moana Blvd. Suite 7-104, Honolulu, HI 96850

(b) At arraignment and plea Mr. Michael Weight  
300 Ala Moana Blvd., Suite 7-104, Honolulu, HI 96850

(c) At trial N/A

(d) At sentencing Mr. Michael Weight  
300 Ala Moana Blvd. Suite 7-104, Honolulu, HI 96850

(e) On appeal Not yet. Presently requesting appointment of counsel.

(f) In any post-conviction proceeding Not yet

(g) On appeal from any adverse ruling in a post-conviction proceeding Not yet

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court at approximately the same time?

Yes ☒ No ☐

17. Do you have any future sentences to serve after you complete the sentence imposed by the judgement under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future:  
N/A

(b) Give date and length of the above sentence: N/A

(c) Have you filed, or do you contemplate filing, any petition attacking the judgement which imposed the sentence to be served in the future?


Yes ☐ No ☒

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on:

November 21<sup>st</sup> 2006  
(date)

  
\_\_\_\_\_  
Signature of Movant